

Remarks

Applicant respectfully submits that entry of this amendment is proper as it makes no amendments to the claims. Applicant respectfully asks the Examiner to reconsider the rejection in view of the below Remarks.

The Examiner has rejected independent claim 1 (and dependent claims 2-3) under 35 U.S.C. §103 as obvious over Rinsma, WO 99/37939, at the time of the invention in view of newly cited Kojima, U.S. Patent No. 5,739,626. This rejection is respectfully traversed.

Novelty

Rinsma does not anticipate independent claim 1 because all of the elements in claim 1 are not shown in this reference. Rinsma does not have a sensor "located remotely from the elastically deformable medium" and, as noted by the Examiner, Rinsma does not disclose a push rod disposed between the sensor element and the deformable medium.

Obviousness

Additionally, Rinsma does not render claim 1 obvious in view of Kojima, for a number of reasons. As noted above, Applicant respectfully notes that Rinsma is not "located remotely from the elastically deformable medium," and, contrary to the assertion that the reference is "silent" as to whether the sensor includes a push rod, Rinsma is not silent on this issue, but actually teaches positioning the sensor adjacent to the medium without any intermediate device. This type of arrangement can result in sensor problems due to the heat in the device, as explained in Paragraph 0005 of the present application. Overcoming this problem is the very point of the present invention and, as explained in Paragraphs 0007-0008, the present invention achieves this by

positioning the sensor remotely and employing a push rod to transmit the force from the medium to the sensor. Applicant respectfully submits that it is not proper to dismiss this fundamental difference in the design of Rinsma and simply find a reference about a piezoelectric sensor that discloses a push rod and add this to the Rinsma disclosure.

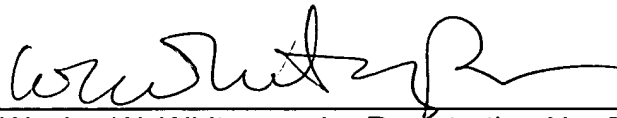
First, Applicant notes that there is no suggestion or motivation for one skilled in the art to combine these references, and in order for the claimed invention to be obvious over the prior art, there must be some suggestion or motivation in the prior art to make the relevant modification. See, e.g., MPEP 2143.01 ("The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination."); *In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430, 1432 (Fed. Cir. 1990) (fact that prior art "may be capable of being modified to run the way the apparatus is claimed, there must be some suggestion or motivation in the reference to do so."). With respect to Rinsma, there is no suggestion that it would be desirable to position the sensor remotely from the medium or that it would be advantageous to employ a structure like a push rod to accommodate such an arrangement. Accordingly, a person skilled in the art would not have looked to the Kojima reference in order to modify the Rinsma design in this way. The motivation to change the design of Rinsma to position the sensor remotely and use a push rod to transmit the force is the result of impermissible hindsight resulting from using the disclosure of the present application. *In re Oetiker*, 977 F.2d, 1443, 1447 (Fed. Cir. 1992) ("there must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge can not come from the applicant's invention itself."); *In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991) (suggestion to combine must be found in the prior art, not the applicant's disclosure).

Moreover, Rinsma even teaches away from such a modification. Specifically, the sensor 50 is actually disposed adjacent a measuring channel 51 (which is connected to the internal space of the pressure pad 53), and the "deformable medium" identified by

the Examiner is a temperature resistant thermal oil in this channel. See Col. 4, Ins. 48-52, 58-64. Therefore, the incorporation of a push rod would not be a very workable arrangement for transmitting force from the medium to the sensor. Nor would one even attempt to make such a design change, as Rinsma already specifically teaches the use of the temperature-resistant-oil-in-channel arrangement.

It is respectfully submitted that claims 1-3, all of the claims remaining in the application, are in order for allowance, and early notice to that effect is respectfully requested.

Respectfully submitted,



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